

## **REMARKS**

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

### **I. CLAIM STATUS AND AMENDMENTS**

Claims 5, 7-8, 10-11 and 13-14 were pending in this application when last examined and stand rejected.

Claims 1-4, 6 and 8-14 are canceled without prejudice or disclaimer thereto.

Claims 5 is amended. Support for the amendments to claim 5 can be found on page 4, lines 23-25, of the specification as filed.

Claims 15-19 are newly added. Support for new claim 15 can be found on page 12, lines 4-5, of the specification as filed. Support for new claim 16 can be found on page 4, lines 2-5, of the specification as filed. Support for new claims 17 and 18 can be found on page 7, line 6, and on page 10, line 19, respectively, of the specification as filed.

Thus, no new matter has been added.

Applicants note claims 5 and 15 are within the examined scope of previously pending claim 5, as shown in previously pending claims 10-11.

### **II. CLAIM OBJECTIONS**

On page 2 of the Office Action, claims 8 and 13 were objected to as being improperly dependent upon canceled base claims. This objection is overcome for reasons which are self-evident.

### **III. DOUBLE PATENTING**

On page 3, claim 8 is indicated as being a substantial duplicate of claim 7. Claim 8 is canceled and therefore this rejection is overcome.

#### **IV. INDEFINITENESS REJECTIONS**

On pages 3 and 4 of the Office Action, claims 5, 7-8, 10-11 and 13-14 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. This rejection is overcome, as applied to the remaining amended claims, for reasons which are self-evident.

#### **V. OBVIOUSNESS REJECTIONS**

On pages 5-7, claims 5, 7-8, 10-11 and 13-14 were rejected under 35 U.S.C. § 103(a) as obvious over Siano (US 6,284,453) optionally in view of EP 0120370.

Applicants respectfully traverse this rejection, as applied to the amended claims, for the following reasons.

As indicated in the abstract of Siano, the method taught in this reference requires measurement of oxygen uptake rate or measurement of biomass concentration along with reactor volume. Thus, this reference fails to teach or suggest the claimed invention which does not require either measurement of the oxygen uptake rate or measurement of the biomass concentration along with reactor volume.

Furthermore, because of the extra variable or variables that are essential to the method taught in Siano, a person of skill in the art would be unable to arrive at the presently recited equations as such equations do not include oxygen uptake rate, biomass concentration or reactor volume required by Siano.

Applicants further note that EP 0120370 is directed toward the production of acetic acid. However, the present claims are directed toward the production of lactic acid or ethanol. Thus, this reference fails to remedy deficiencies in the Siano reference and fails to disclose or suggest each and every element of the claimed invention.

Therefore, the cited references, alone or in combination, fail to make obvious the claimed method using the claimed equations.

Accordingly, this rejection, as applied to the present claims, is untenable and should be withdrawn.

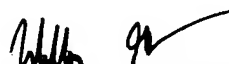
**VI. CONCLUSION**

In view of the foregoing amendments and remarks, the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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